

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

ROBERT COX,

Petitioner,

v.

COMMONWEALTH OF
PENNSYLVANIA, et al.,

Respondents.

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CIVIL ACTION NO. 3:CV-09-268
(JUDGE KOSIK)

FILED
SCRANTON

MAR 20 2009

PER M. E. P.
DEPUTY CLERK

MEMORANDUM and ORDER

AND NOW, THIS 20th DAY OF MARCH, 2009, IT APPEARING TO THE COURT

THAT:

- (1) Petitioner, Robert Cox, a prisoner confined at the Dauphin County Prison, Pennsylvania, filed the instant petition for writ of habeas corpus on February 10, 2009;
- (2) In his petition, petitioner is seeking an opportunity to contest a New Jersey state detainer;
- (3) The action was assigned to Magistrate Malachy E. Mannion for Report and Recommendation;
- (4) On February 13, 2009, the Magistrate Judge issued a Report and Recommendation wherein he recommended that the petition for writ of habeas corpus be dismissed with prejudice;
- (5) Specifically, the Magistrate Judge found that Petitioner failed to exhaust his state

court remedies in that his county court filing was returned to him for lack of a case number in his underlying state conviction;

(6) Petitioner has failed to file timely objections to the Magistrate Judge's Report and Recommendation;

AND, IT FURTHER APPEARING THAT:

(7) If no objections are filed to a Magistrate Judge's Report and Recommendation, the plaintiff is not statutorily entitled to a de novo review of his claims. 28 U.S.C.A. § 636(b)(1)(C); Thomas v. Arn, 474 U.S. 140, 150-53 (1985). Nonetheless, the usual practice of the district court is to give "reasoned consideration" to a magistrate judge's report prior to adopting it. Henderson v. Carlson, 812 F. 2d 874, 878 (3d Cir. 1987);

(8) We have considered the Magistrate Judge's Report and we concur with his recommendation.

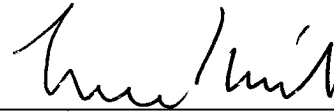
ACCORDINGLY, IT IS HEREBY ORDERED THAT:

(1) The Report and Recommendation of Magistrate Judge Malachy E. Mannion dated February 13, 2009 (Document 4) is **ADOPTED**;

(2) The petitioner's petition for writ of habeas corpus is **DISMISSED** with prejudice;

(3) The Clerk of Court is directed to **CLOSE** the case and forward a copy of this Memorandum and Order to the Magistrate Judge; and

(4) Based on the court's conclusions herein, there is no basis for the issuance of a certificate of appealability.

A handwritten signature in black ink, appearing to read 'Edwin M. Kosik', written over a horizontal line.

Edwin M. Kosik
United States District Judge